

LYMAN KING.

FEBRUARY 29, 1840.

Laid on the table.

Mr. RUSSELL, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom has been referred the petition of Lyman King, make the following report :

The claim in question has been frequently presented to the consideration of Congress, and in the House of Representatives was referred to the Committee of Claims at the third session of the 25th Congress, when a full and laborious investigation was made into the subject, and an adverse report was made thereon. There is no additional testimony now submitted to the committee; and after a review of the case and the former report, the committee have come to the same conclusion therein expressed, (see report No. 55, House of Representatives, third session 25th Congress;) they therefore offer for the consideration of the House the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

JANUARY 2, 1839.

The Committee of Claims, to whom was referred the petition of Lyman King, report :

The petitioner alleges that, in the spring of 1808, (the year of the embargo,) he owned a raft of square pine timber, and that he put it into the charge of some men about the first of May, with a view to market it at Quebec; that it was supposed they had sufficient time to pass the line into Canada before the embargo went into operation, but that they were prevented by head-winds, and said raft was driven ashore at Champlain, (New York,) and, on the first day of the embargo, was taken by the officers of the customs at that place, and was afterwards used by the United States troops stationed there, for the purpose of building block-houses and barracks; and that said property was never libelled, and no legal proceedings were had in relation to the same. He further alleges that said raft contained about 15,000 feet of square timber, worth at least \$1,000, and other articles and provisions of the value of \$450; and that all said articles were taken and used by the Government troops. And he further says, that his indigent circumstances were the cause of his not prosecuting his claim before.

Loyall Oliver and Joseph Brindon depose that, in 1808 or 1809, they were knowing to a certain raft of square pine timber, then lying in Lake Champlain, near the Canada line, being seized by the United States offi-
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cers, and used in building barracks for the United States troops at Champlain, and that Lyman King, of Burlington, was the reputed owner of the same; that they are unable to state the quantity of the timber, or its value.

The deposition of Daniel T. Taylor, of Champlain, is worthy of particular notice. He says that he was in the revenue service of the United States, under General Melancton Woolsey, collector of the district of Champlain, in 1808; that, in the month of May, a raft of timber (square oak, pine, and plank) came down the lake for the Quebec market, owned (as it was said) by one Hulgate, Minor, and King—the oak by Hulgate, the plank by Minor, and the pine square timber by King; that the raft was seized by the custom-house officers, and taken into Champlain bay, and the pine timber was driven hard on the land; that the next night a number of hands confined the guard, (as it was reported,) and shoved the timber, which was afloat, into the stream, and went over the lines; that the timber which was on shore was towed to the landing by the *revenue men*, where, he believes, it remained all summer, and “this square pine timber was taken by the troops, and made into barracks, and some was burnt;” and, to the best of his recollection, the whole of the timber was used in the United States service, in various ways, and that he does not believe it was libelled. He estimates the quantity so taken and used at 15,000 or 20,000 feet, and the value, to the best of his remembrance, was from \$40 to \$60 a thousand.

This account, it will be seen at once, differs materially from the statement in the petition. It is not there mentioned that any other persons were interested in the raft, nor (the material circumstance) that the principal part of it was retaken and carried over the lines, in violation of the laws then in force. By whom this was done, it does not appear. An important inference on this subject may be made from the circumstance that the fact is not stated in the petition.

The first embargo act was passed December 22, 1807, and went into immediate operation. The act under which the seizure complained of was made was passed March 12, 1808. The fourth section of that act provided that it should not be lawful to export from the United States, in any manner whatever, any goods, wares, or merchandise, of foreign or domestic growth or manufacture, either by land or water; and it further provided that the vessel, raft, &c., in which the same should be exported, should be forfeited; and it contained many other provisions to prevent such exportation.

This claim for relief is now made, thirty years after the alleged illegal seizure and the use of the timber by United States troops. The delay is not satisfactorily accounted for. If the seizure was illegal, or made in an irregular and illegal manner, or if the property was illegally used, the owner thereof had a plain remedy at law, of which he might have availed himself at the time. But even if the alleged grounds of complaint were sufficient to make a just claim on the United States, the evidence produced in support of the same is altogether unsatisfactory. Further: it is not stated that the timber used by the troops was so taken and appropriated by the order of any officer having command at said post.

The committee are clearly of opinion that the claim of the petitioner ought not to be allowed; and they therefore report the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.